

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES ST. LOUIS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-236-SLR
)	
LT. CHERYL MORRIS, DIR. CHRIS)	
KLEIN, and DELAWARE PRISONS)	
(All Officers and Supervisors)	
including State of Delaware,)	

ORDER

WHEREAS, plaintiff James St. Louis, a prisoner incarcerated at the Delaware Correctional Center, Smyrna, Delaware, filed a complaint pursuant to 42 U.S.C. § 1983 (D.I. 2);

WHEREAS, on June 19, 2006, in screening the case, the court dismissed without prejudice the case (D.I. 6);

WHEREAS, upon reconsideration the court found that the complaint alleged a cognizable retaliation claim, that plaintiff was allowed to proceed with the claim, and that he was allowed to amend his complaint (D.I. 11);

WHEREAS, the order stated that plaintiff was not allowed to reinstate any previously dismissed claims and that he could not name as defendants "all officers and supervisors of the prison systems in the State of Delaware" (D.I. 11);

WHEREAS, on October 13, 2006, plaintiff filed an amended complaint dropping as a defendant all officers and supervisors of the prison systems in the State of Delaware and adding as defendants Administrator Michael Knight, Lt. LeGates, Lt. Lehman,

Sgt. Johnson, and Sgt. Boring (D.I. 13);

WHEREAS, contrary to the court's September 26, 2006, the amended complaint reinstates a due process claim (D.I. 13);

THEREFORE, at Wilmington this 15~~th~~ day of December, 2006, IT IS ORDERED that:

1. Defendant "all officers and supervisors of the prison systems in the State of Delaware" is dismissed from the case.

2. Administrator Michael Knight, Lt. LeGates, Lt. Lehman, Sgt. Johnson, and Sgt. Boring are added as defendants.

3. Pursuant to the court's memorandum orders of June 19, 2006 (D.I. 6), and September 26, 2006 (D.I. 11), the due process claim is **dismissed without prejudice**. Plaintiff is allowed to proceed with his retaliation claim.

4. The clerk of the court shall cause a copy of this order to be mailed to plaintiff.

5. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff shall complete and return to the clerk of the court an **original** "U.S. Marshal-285" form for **defendants Lt. Cheryl Morris, Director Chris Klein, Administrator Michael Knight, Lt. LeGates, Lt. Lehman, Sgt. Johnson, and Sgt. Boring**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Additionally, plaintiff shall provide the court with a copy of the complaint (D.I. 2) and the amended**

complaint (D.I. 13) to be served upon defendants and the attorney general. Plaintiff is notified that the United States Marshal will not serve the complaint and amended complaint until all "U.S. Marshal 285" forms have been received by the clerk of the court. Failure to provide a copy of the complaint, the amended complaint, and the "U.S. Marshal 285" forms for defendants and the attorney general within 120 days from the date of this order may result in the complaint being dismissed or defendant being dismissed pursuant to Federal Rule of Civil Procedure 4(m).

5. Upon receipt of the form(s) required by paragraph 4 above, the United States Marshal shall serve a copy of the complaint, amended complaint, the court's memorandum orders dated June 19, 2006, and September 26, 2006, this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon the defendants identified in the 285 forms.

6. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

7. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who,

before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, the amended complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

8. No communication, including pleadings, briefs, statement of position, etc., will be considered by the court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

9. **NOTE: ***** When an amended complaint is filed prior to service, the court will **VACATE** all previous service orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). *******

10. **NOTE: ***** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. *******


UNITED STATES DISTRICT JUDGE